



February 13, 2015

BY ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

REQUEST FOR APPEAL

IN THE MATTER OF:)	
)	
GREEN DOT PUBLIC SCHOOLS)	CC Docket No. 02-6
BEN 16021229)	
)	
2011 Form 471: 787530)	
FRNs: 2203845, 2203870, 2242494)	
)	
2012 Form 471: 826680)	
FRNs: 2368681, 2368071)	
)	
2013 Form 471: 878649)	
FRNs: 2455995, 2455996, 2456000,)	
2456001)	

Green Dot Public Schools, BEN 16021229 (Green Dot) requests that the FCC grant the Commitment Adjustment (COMAD) appeals of the above named funding requests for Funding Years 2011 and 2012, and the appeal of the regular denials from Funding year 2013, which were denied on December 15, 2014 by the Universal Service Administrative Company (USAC), citing the Macomb Order (FCC 07-64). Green Dot contends that USAC erred in its usage of the Macomb Order, which dealt with multiple T-3 lines from multiple carriers with high fixed installation costs, and applied it a situation with multiple cell phone carriers over a large geographic distance, where spotty coverage created a public safety hazard in the inner city schools.

Furthermore, guidance on the USAC website regarding the issues raised by the Macomb Order for multiple service providers of the same service is non-existent. It was first mentioned at the USAC Fall 2013 Applicant Training in DC for Funding Year 2014 on September 30, 2013. However, if you search the



published materials for the 2013 session, you will only see an empty page that says “Scenario¹” – nothing of the actual scenario that was handed out during the session. Unless you attended the training session, you would have no way of knowing that a rule interpretation change had taken place. Any guidance announced at the Funding Year 2014 training session should be valid on a going forward basis from FY 2014 and later, not retroactive. In USAC’s denials, they applied the standard retroactively to funding commitments already approved from 2011 and 2012, and to applications still pending for Green Dot for 2013. Green Dot contends that funding commitments for all three years should be restored and the COMADs and denials vacated, as the competitive bidding for those years was done before the interpretation change was announced in September, 2013.

Background

Green Dot Public Schools is a charter school district primarily located in Los Angeles inner city schools serving disadvantaged students in the poorest neighborhoods. Often, Green Dot takes over failed schools, or schools about to lose accreditation, and injects new management into the entities to turn those schools around. Green Dot is geographically diverse, and is neither compact nor discrete: They have 21 schools located throughout the various communities of the Los Angeles metropolitan area, 2 schools in Memphis, TN and will be adding schools in Washington State and elsewhere in the country over the next several years. These schools are usually in the highest crime, highest poverty areas of the inner city, often with armed guards, 16 foot high walls ringed with barbed wire, and metal detectors at the entrances. Many times, they inherit existing outdated IT infrastructure including telephones, IT data infrastructure and spotty cell phone coverage.

At many schools in other school districts, cell phone dead zones are an inconvenience—you can just go to another area of the school to make a call. However, in the schools that Green Dot administers, dead zones in cell phone coverage are more than an inconvenience, they are a public safety hazard. If cell phones do not work, lives are potentially at risk. A least expensive signal that does not go through is worthless, a public hazard, and a waste of E-rate funds. Forcing a district to use a single provider that does not provide adequate signal strength to all schools, as USAC’s denial would impress, could potentially cause a lack of cell phone coverage in campuses which need the service the most.

If each of the public charter schools under Green Dot’s district applied separately, this entire discussion would be moot as each would have chosen the most cost effective vendor that provided the best quality of service. As a charter school district, which is not compact, the district allowed each school to choose the best, most cost effective service for themselves. Consequently, each individual school retained the ability to use the cell phones that work best in their location, whether it be AT&T mobility, Sprint, or Verizon. There was no duplication of service.

¹ <http://www.usac.org/res/documents/SL/training/2013/Ensuring-Program-Compliance.pdf> Last visited 2/4/2015 at 10:56AM.



In the Macomb Order (FCC 07-64) cited in the denial and COMAD letters on page 4, paragraph 7 the Commission has found that the discounts be awarded to meet the reasonable needs and resources of applicants.²

Exhibit 1: Text from FCC 07-64 Macomb order relating to reasonable needs

7. As noted above, the Commission has found that discounts be awarded to meet the “reasonable needs and resources” of applicants.²⁶ In the instant case, we find it would have been more cost effective for Macomb ISD to seek the T3 services it needed from a single, lowest bidder. Macomb ISD’s application for funding shows that the services it received from XO Michigan, Inc. were less expensive than the same service offered by the other two providers.²⁷ Based on the costs submitted in its application, had Macomb ISD purchased all of its T3 connections from XO Michigan, Inc., it would have saved more than \$36,000 on its Internet connections.

Furthermore, USAC clarified at the 2013 training session that geographic reasons (i.e. one provider could not provide the services to all sites in the district) within the district could be grounds for using multiple providers.³ Green Dot argues that, as a charter school district, which is neither compact nor contiguous, that cell phone coverage would not be the same in one school as it would be in another school and that is a legitimate reason for having multiple cell phone carriers.

For example, according to the email below in Exhibit 2, in 2007, Green Dot expanded into a new campus at South LA High School. AT&T was their provider at the time, but did not provide service to that new campus. Green Dot went with a separate provider for that campus, which was Verizon, but subsequently they moved to Sprint which provided better quality of service for that campus.

² Docket 02-6 FCC 07-64 In the Matter of Request for Review by Macomb Intermediate School District, (Macomb) released May 8, 2007, page 4, and paragraph 7.

³ Verbal Q&A during USAC 9/30/2013 USAC training session



Exhibit 2: Green Dot email regarding rationale for multiple cell phone providers.

Hi Paul-

I can probably give you a couple of good reasons why we have had multiple cell phone vendors now. If I come across anything else later I will let you know.

#1. We have several senior managers that have I-pads that are locked into the AT and T network. We have attempted to break away from AT and T with the I-pads but they are locked into the AT and T cell network.

#2. Green Dot is an expanding business. We are unlike a lot of other schools that are fairly static in their growth. We needed an additional cell phone vendor with coverage at the South LA High campus when that campus opened up around 2007. I think we had Verizon at that time and then switched to Sprint (aka Nextel)

#3. Some of Green Dot's school locations are in older neighborhoods that are very dangerous to enter. We have armed guards and 16 ft high iron fences around some of the campuses. If the cell phone vendor we chose somehow changed their coverage, I think Green Dot wanted to make sure that we could get the employees working in these conditions and still take advantage of the USAC discounts.

That's what I have right now.

Bill Campbell

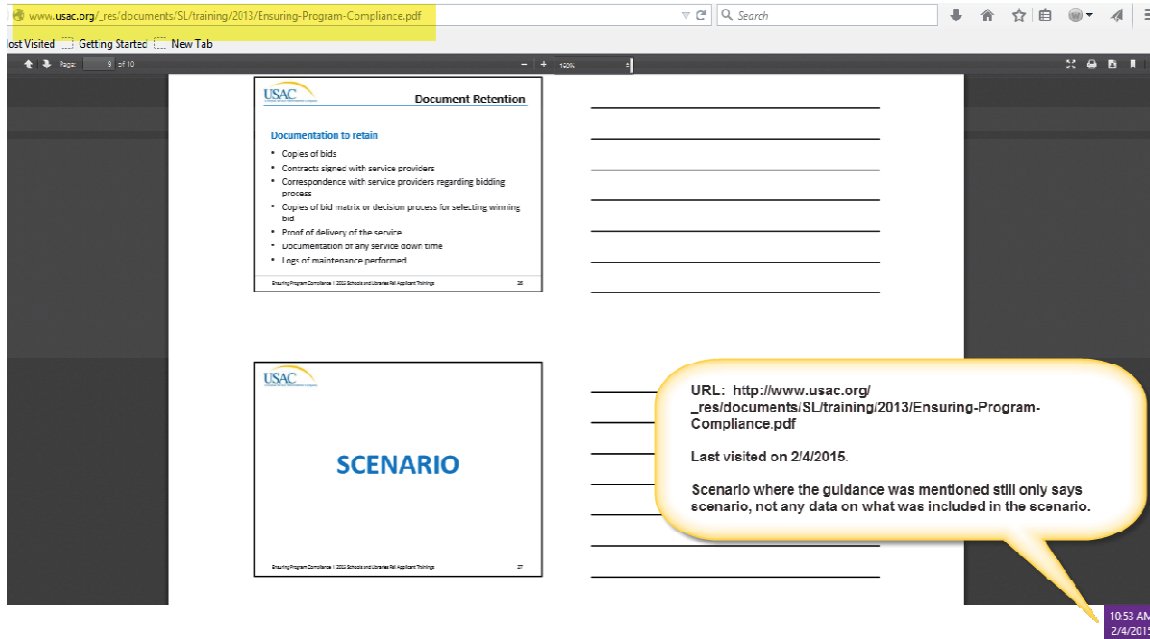
Vice President of Technology
Green Dot Charter Schools

Consequently, as Green Dot expanded, they adopted the infrastructure limitations of the new campuses. This led to multiple service providers being used.

For funding year 2014, after the September 30, 2013 training session which announced the guidance change, Green Dot did a thorough inventory of the cell phone coverage throughout each of the schools. They determined that service provider infrastructure around the schools had improved sufficiently that the district could migrate to one provider. Green Dot followed the guidance as it was delivered at the 2013 USAC training and consolidated cell phone operations into a single carrier. From the moment the revised guidance was announced, Green Dot actively modified policies to remain in compliance with the rules as currently implemented. Prior to that date, USAC had never once, in any applicant training, service provider training, conference call, webinar, or training materials mentioned guidance based on the Macomb Order. Consequently, there is no way the district could be in compliance with the revised guidance prior to the date it was announced. Applications from 2011, 2012 and 2013 (the subject of the denials and COMADs referenced in this appeal) must be treated differently than applications filed after the revised guidance was announced. Green Dot reiterates that the revised guidance should be valid from FY 2014 onward. Therefore, we request that the appeals be granted.



Exhibit 3: USAC 2013 Training Slides Ensuring Program Compliance where Revised Guidance first announced on 9/30/2013



Macomb Order discusses Terrestrial-based technologies, not Cell Phone Coverage

When the FCC ruled in the Macomb Order, they were ruling on large fixed installation costs, duplicated by multiple providers, where the fund was paying for multiple T-3 lines to be installed by different carriers. The marginal cost of adding another line (i.e. a "second line") to an existing network infrastructure is vastly smaller using the same provider than it would be to allow a different provider to install a new line. That makes sense to protect the Universal Service Fund for landline installations, however, in this case, we are not talking about landline installations, and we are talking about cell phone service. Cell phone companies do not usually install equipment on premise at a school site that provides a direct connection to the school for the cell phone service. The very nature of the cell phone service is the signal radiates from a fixed point and that anyone with that service can access the signal. Schools pay a monthly fee for the service; they do not pay for the installation of the cell phone equipment that provides the signal. Since schools do not pay for the installation of the equipment, the fixed costs involving the installation of one cell phone company microcell—whether it be for Verizon, AT&T, or Sprint is borne by the carrier, not the applicant, and certainly not the E-rate portion of the Universal Service Fund. The marginal cost of the service would be the same for one user or 50 users—i.e. the monthly service fee.

It is reasonable to assume, therefore, that the Macomb order is applicable to terrestrially-based communications like T-3 lines where the applicant controls the installation of the infrastructure, but not applicable to cell phone communications, where the applicant does not control the installation of cell



phone towers or mini-cell repeaters. USAC is overly broadly interpreting the Macomb Order to apply to cell phone service when it is clear from the discussion in the Order that the Macomb Order only intended to deal with multiple providers of land line services. Consequently, Green Dot requests that the COMADs and denials citing the Macomb order should be overturned.

Conclusion

Green Dot asks that the FCC clarify that the Macomb Order guidance only applies to Funding Year 2014 and later, given that the revised guidance was announced at the USAC training prior to Funding Year 2014, and that the appeals be granted for all of the related Green Dot applications listed above for funding years 2011, 2012 and 2013. Furthermore, this guidance should be limited in scope to terrestrially-based technologies like the T-3's or related direct connections to the applicant site, not cell phone service, which is not a direct connection to the applicant site.

If an appeal approval is not warranted, we respectfully request that the Commission waive the applicable sections of 47 C.F.R. §§ 54.502, 54.503 in accordance with their discretion to waive such rules based on the facts presented which clearly represent an extraordinary set of circumstances demonstrating that strict compliance would be inconsistent with the public's interest.

Sincerely,

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